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Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 95-170

In the Matter of

Amendment of Section 73.202(b) RM-8721
Table of Allotments. RM-8753
FM Broadcast Stations.
(Campton and Frenchburg, Kentucky)¹

compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction.⁴

3. Accordingly, pursuant to the authority found in Section 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED. That effective **June 3, 1996** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

City	Channel No.
Campton, Kentucky	279A

4. The window period for filing applications will open on **June 3, 1996**, and close on **July 3, 1996**.

5. IT IS FURTHER ORDERED, That, at the request of James P. Gray, the counterproposal proposing the allotment of Channel 279A at Frenchburg, Kentucky (RM-8753), IS DISMISSED.

6. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

7. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau (202) 418-2700.

REPORT AND ORDER
(Proceeding Terminated)

Adopted: March 25, 1996; Released: April 18, 1996

By the Chief, Allocations Branch

1. At the request of James P. Wagner ("petitioner"), the Commission has before it the *Notice of Proposed Rule Making*, 10 FCC Rcd 12566 (1995), proposing the allotment of Channel 279A at Campton, Kentucky, as the community's first local aural transmission service (RM-8721). Comments and a counterproposal were filed by James P. Gray ("Gray") proposing the allotment of Channel 279A at Frenchburg, Kentucky, as the community's first local aural transmission service (RM-8753).² Petitioner filed comments in support of the proposal reaffirming his intention to apply for the channel, if allotted.³ Gray subsequently withdrew his Frenchburg counterproposal and filed comments in support of the Campton proposal expressing his intention to apply for the channel, if allotted.

2. We believe the public interest would be served by allotting Channel 279A at Campton, Kentucky, since it would provide the community with its first local aural transmission service. An engineering analysis has determined that Channel 279A can be allotted to Campton in

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

¹ The community of Frenchburg has been added to the caption.

² Public Notice was given to the counterproposal on February 9, 1996, Report No. 2121. Although the counterproposal was filed on January 11, 1996 (after the original comment date specified in the *Notice*), it is timely filed because the deadline for filing comments in this proceeding was extended to January 16, 1996 due to the shutdown of the Commission and to a related snow emergency. (See Public Notice, DA 96-1, released January 5, 1996, and Public Notice, DA 96-2, released January 11, 1996). To this extent, Section 1.4(j) of the Commission's Rules was waived in order to facilitate an orderly reopening.

Gray also requested the allotment of Channel 287A at Booneville, Kentucky, as the community's first local aural transmission service. However, this is not a counterproposal since there is no mutual exclusivity between the allotment of Channel 279A at Campton and the allotment of Channel 287A at Booneville, Kentucky. A counterproposal is a proposal for an alternative and mutually exclusive allotment or set of allotments in the context of the proceeding in which the proposal is made. See *Implementation of BC Docket 89-90 to Increase the*

Availability of FM Broadcast Assignments, 5 FCC Rcd 931 (1990). In light of our finding and the fact that Gray filed a new petition for rule making for the Booneville allotment, we have issued a separate Notice of Proposed Rule Making. See MM Docket No. 96-26, 11 FCC Rcd 2890 (released March 4, 1996); 61 FR 9411, March 8, 1996.

³ Although the date for comments was extended to January 16, 1996 because of the shutdown and weather emergency, petitioner's comments were late-filed. See n.2, *supra*. However, we will accept them for the purpose of expressing continuing interest since this is no longer a contested proceeding and the allotment does not conflict with any other pending proposal(s). Petitioner also filed timely comments opposing the counterproposal to allot Channel 287A at Frenchburg, Kentucky. However, in view of the subsequent withdrawal of the counterproposal, petitioner's comments are moot.

⁴ The coordinates for Channel 279A at Campton are North Latitude 37-44-06 and West Longitude 83-32-48.

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